

TAIWAN

TRADE SUMMARY

The United States trade deficit with Taiwan reached \$16.1 billion in 2000, a slight increase from 1999. U.S. exports in 2000 were \$24.4 billion, up 27.5 percent from 1999. Corresponding U.S. imports from Taiwan were \$40.5 billion, up 15 percent. Taiwan is currently the 7th largest export market for U.S. goods. U.S. exports of private commercial services (i.e., excluding military and government) to Taiwan were \$4.9 billion in 1999, and U.S. imports were \$3.5 billion. Sales of services in Taiwan by majority U.S.-owned affiliates were \$4.2 billion in 1998, while sales of services in the United States by majority Taiwan-owned firms were \$622 million. The stock of U.S. foreign direct investment (FDI) in Taiwan in 1999 was \$6.9 billion, up 9.6 percent from 1998. U.S. FDI in Taiwan is concentrated largely in the manufacturing, finance and banking sectors.

OVERVIEW

Most of the trade barriers described in this section have been addressed in extensive negotiations. In principle, many of the existing barriers will not be eliminated until Taiwan becomes a member of the World Trade Organization (WTO). However, Taiwan has lowered a number of these barriers prior to its WTO accession.

The United States and Taiwan reached an agreement in February 1998 on the market access elements of Taiwan's WTO accession package. The agreement, which includes both immediate market access and phased-in commitments, will provide substantially increased access for U.S. goods, services, and agricultural exports to Taiwan, including the automobile, telecommunications, government procurement, beer, spirits, and wine markets. Even prior to Taiwan's WTO accession, the agreement also provides for annual imports from the United States of previously banned pork, chicken, and variety meat products.

IMPORT POLICIES

Tariffs

In May 1998, Taiwan began implementing tariff cuts on 1,130 items, many of specific interest to U.S. industry, such as buses, agricultural products, including fruits and vegetables, and camera film. Tariff reductions on 15 agricultural products, negotiated as part of the U.S.-Taiwan bilateral WTO agreement, took effect on a temporary basis in July 1998 and were extended in July 2000. In February 1999, Taiwan waived tariffs on 15 aircraft components as part of plans to accede to the WTO. As of January 2001, an additional 750 items are slated for tariff cuts pending legislative approval. A comprehensive tariff schedule revision based on the results of Taiwan's bilateral and multilateral WTO consultations with 30 trading partners is being developed for the Executive Yuan's review and is expected to go to the Legislative Yuan in mid-2001 for approval. Taiwan's current average nominal tariff rate is 8.2 percent; the trade-weighted rate is 2.5 percent, both down slightly from 1998.

Many agricultural tariffs were cut as part of Taiwan's tariff reductions in 1995 and 1998. Nevertheless, U.S. exporters contend that many of these tariff reductions were not deep enough to have real commercial effect, and that the present tariff structure on these items, as well as other agricultural tariffs, continue to be a significant barrier to exports. Some examples include fresh fruits (40-50 percent tariff); processed vegetables, including vegetable juices (35-50 percent); fresh and frozen avocados (28-35 percent); processed fruit, including canned peaches and canned fruit mixtures (20-33 percent); potato products, (15-32 percent); raisins (3NTD/kilo); cheese (11 percent); and sunflower seeds and oil (11-15 percent). However, many of these tariffs will be lowered in the context of Taiwan's WTO accession.

In addition, U.S. agricultural exporters continue to report instances in which the customs authorities on Taiwan have reclassified import items in line with higher tariffs, despite years of trade history. For instance, the classification for yellow grease, which is often used as a feed additive, was changed in 1995, resulting in a tariff of 15 percent instead of two percent. The current differential between the original and reclassified tariff lines is between one and 10 percent. Such a practice negates some of Taiwan's tariff cuts. Industry has also expressed concerns about customs duties that are levied on certain express shipments entering Taiwan even though they would be duty free if shipped via the postal service.

U.S. industry is concerned that Taiwan's tariffs on certain forest and paper products are relatively high. For instance, the tariff on paper products ranges from five to seven percent, on plywood from five to 12.5 percent and on pulp from zero to 1.3 percent. Many of these tariffs will be reduced or eliminated upon Taiwan's accession to the WTO.

Taiwan is a participant in the Information Technology Agreement (ITA). Under the ITA, Taiwan agreed to phase out tariffs on information technology products. The vast majority of tariffs on these products have been phased out or reduced since 1997 through administrative order. Remaining commitments on ITA tariff cuts will be completed by 2002. All ITA tariff cuts must be permanent, so the administrative order approving adjustments must be renewed annually until Taiwan enacts the cuts into its law.

Licensing and Other Restrictions

Of some 10,247 official import product categories, nearly 86 percent are completely exempt from controls. 1,027 categories are still "regulated" and require approval from relevant authorities based on the qualifications of the importer, the origin of the good, or other factors. Another 151 require import permits from the Board of Foreign Trade or pro forma notarization by banks. Imports of 251 categories are "restricted," including ammunition and some agricultural products. These items can only be imported under special circumstances, and are thus effectively banned.

Taiwan bans imports of rice, peanuts, adzuki beans, certain cuts of pork, poultry offal, sugar (except for imports by monopoly producer Taiwan Sugar Co.), and selected dairy products. In the U.S.-Taiwan bilateral agreement on WTO accession concluded in

February 1998, special access was provided for agricultural products previously subject to import bans, including certain pork, chicken, and beef products. Subsequent to the implementation of quotas on these meat products, Taiwan authorities reclassified two additional pork products in order to ban or limit their import. As a result, Taiwan now bans imports of frozen bacon and sets import quotas on some pork bone products. Both of these products could be imported in unrestricted quantities prior to reclassification.

During 2000, the special access arrangements were multilateralized, i.e., "U.S.-only" quotas were converted into quotas open to all WTO members. Because of the competitiveness of U.S. product prices, imports of pork and chicken products in 2000 continued at levels at or above those concluded in the February 1998 agreement. Taiwan, however, took the unusual step of allocating a significant portion of the 2000 chicken quota to poultry farmers who did not then import. Discussions are underway to assure that this practice is not repeated before Taiwan accedes to the WTO. Upon accession to the WTO, these products will be subject to tariff rate quotas until January 1, 2005, when they will be eliminated.

Taiwan has agreed to abolish its government alcohol monopoly and provide a more equitable system of taxation on these products upon accession to the WTO. In place of the monopoly tax, Taiwan has agreed to an excise tax and to eliminate tariffs on imports of nearly all spirits.

The U.S. industry is concerned that Taiwan's building codes favor non-wood construction and restrict wood construction to buildings of four stories or less. This means that market access for U.S. exports of wood construction products is limited.

In addition to these restrictions, the U.S. industry is concerned about current import policies on certain vessels/ships. Yacht imports are regulated by the Ministry of Transportation and Communication (MOTC) and recreational fishing boat imports are regulated by the Council of Agriculture (COA). According to the COA, the import of recreational fishing boats is currently bound by the limited number of berths. Only when old boats are replaced do berths become available, and only those who can provide evidence of berth ownership can qualify to import recreational or fishing boats. Upon accession to the WTO, Taiwan has committed to implement a licensing system for recreational fishing vessels that conforms to the WTO Agreement on Import Licensing Procedures, allowing import of such vessels. However, it has been reported that certain special permit requirements may still be necessary for national security or anti-smuggling reasons.

The permit process for the import of motorcycles with engines larger than 150 cc will be liberalized after Taiwan's WTO accession. In addition, Taiwan has committed to set emissions standards for motorcycles over 700 cc in line with international standards. However, the U.S. industry remains concerned that Taiwan will continue to ban the use of large motorcycles on its tollways.

For some products where licenses are currently required, the importer may be required first to obtain authorization from various agencies. Examples of this requirement include going to Taiwan's Department of Health (DOH) for medical equipment, the Board of

Foreign Trade or the provincial Department of Agriculture and Forestry for certain fertilizers, or the Department of Environmental Protection for waste and scrap copper, aluminum, lead, and zinc. These additional approvals and documentary requirements add to the administrative burdens of importing products into Taiwan or make import effectively impossible for small exporters. Once Taiwan becomes a WTO member, only those requirements mentioned above that comply with the Agreement on Import Licensing Procedures and the Agreement on Technical Barriers to Trade will be permitted. Similarly, local content requirements in the automobile and motorcycle industries will be lifted as part of Taiwan's WTO accession.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Industrial products (such as air-conditioning and refrigeration equipment) are required to undergo testing to verify energy efficiency and capacity before clearing customs. Under Taiwan's "Custom Import Tariffs and Classification of Import and Export Commodities Law," these imports must conform to regulations promulgated by the Bureau of Commodity Inspection & Quarantine (BCIQ), including a required commodity inspection upon each import. Although the inspection process has been simplified for certain products and these inspections can be waived for three years, the U.S. industry remains concerned with these procedures. Recent efforts by customs to enforce compliance have resulted in long delays for some U.S. products entering the market, as testing facilities are inadequate and testing procedures slow and inefficient.

Restrictive standards and testing requirements exist for most agricultural goods, and Taiwan sometimes fails to notify its trading partners of changes in sanitary and phytosanitary (SPS) import regulations. Notifications, when they occur, are usually not provided in a WTO language and are given with little notice ahead of time. Once Taiwan is a WTO member, notifications must be provided in a WTO language and Taiwan must abide by international norms as embodied in the WTO agreement on application of SPS measures. In 1999, Taiwan did agree to accept meat and poultry imports from plants approved by the USDA Food Safety Inspection Service (FSIS), and agreed that FSIS-certified exports are eligible for import into Taiwan. In 1999 and 2000, Taiwan agreed to accept Codex Alimentaris Commission (CAC) and, in some cases, U.S. pesticide residue standards for imported fruits and vegetables. The CAC sets international standards that impact food trade. Taiwan's implementation of new regulations has not disrupted trade, as originally feared.

Taiwan authorities have generally taken a rational approach to trade in bioengineered foods. Taiwan will accept other advanced country regulatory approval for commercialization of a crop until its own regulatory approval process is developed. Mandatory labeling is currently planned to commence in 2003.

Registration and approval procedures for imports of pharmaceuticals, medical devices, and cosmetics are both complex and time-consuming, and have been the subject of long-standing complaints by U.S. firms. Foreign medical device manufacturers must re-register second or third generation versions of previously approved products, and the Taiwan Department of Health also requires the registration of individual products instead of entire product lines. The adoption of the FDA medical device classification

system in June 2000 has simplified the registration process, but redundant testing and registration requirements remain.

Except for new chemical entities, pharmaceutical companies are not permitted to import drugs that are produced using multi-site sourcing. Moreover, pharmaceutical companies claim that clinical trial requirements in Taiwan for drugs that have been approved in other major markets add two to three years to the approval process. In 1998, however, Taiwan authorities said they would phase-out their clinical trials as part of the registration process for new drugs. Bridging studies were introduced as an alternative to clinical trials in December 2000. However, pharmaceutical companies are concerned that the new bridging study requirement could be as onerous as the earlier one, especially if it fails to adhere to International Council of Harmonization (ICH) standards.

Department of Health authorities continue to require the submission of detailed plant master files (PMF) as part of the registration and approval process for new drugs. U.S. industry has called for submission of U.S. FDA establishment inspection reports, ISO-13485 certificates, and free sales certificates as a means to satisfy the PMF requirement. This would bring the PMF compliance for new drugs in line with Taiwan's new PMF requirement for U.S.-made medical devices. Medical device registration is limited to 24 items per company per year, in part due to inadequate staffing in government registration testing facilities. This limits larger U.S. firms' ability to introduce their products into the market. However, the government has resisted offers by industry to seek a solution.

In 1997, the Taiwan authorities promulgated new electromagnetic compatibility (EMC) standards for computer and other electronic goods that threatened to disrupt U.S. computer exports to Taiwan. In response, in March 1999, the U.S. and Taiwan signed a mutual recognition agreement (MRA) designed to eliminate duplicate testing of information technology equipment. According to the terms of the MRA, certain Taiwan exports to the U.S. previously tested for electromagnetic conformity in laboratories recognized by Taiwan authorities will no longer require duplicate inspections in U.S. laboratories. Reciprocal treatment will likewise be accorded to similar U.S. products imported into Taiwan. Relevant U.S. agencies and their Taiwan counterparts are jointly implementing operating procedures according to the terms of the MRA, including nominating certified labs for mutual accreditation.

GOVERNMENT PROCUREMENT

In performing government contracts in Taiwan, U.S. firms have encountered significant trade barriers. Despite recent reforms, access to Taiwan's estimated US \$10 billion annual public construction market remains difficult. Municipal governments, in particular, have been notably arbitrary in dealing with foreign contractors. The most common difficulties are frequent and unreasonable change orders introduced during the performance of a contract. Performance bonds are forfeited and contracts canceled when foreign construction companies are unwilling to accommodate substantially increased costs within the originally agreed payment. Lack of timely and effective arbitration procedures prevent satisfactory resolution of contract disputes. As a result, some major international contractors will no longer undertake bids or significant

contracts in Taiwan.

U.S. industry has also been hindered in bidding on major projects by the use of nontransparent procurement procedures, including the use of unlimited potential damages and contingent liability requirements which are inconsistent with international practices. Other problems include expensive bond requirements, short lead times on major tenders, non-transparent and lengthy warranty provisions, unclear payment schedules, and pre-qualification requirements which limit experience to similar projects in Taiwan and disqualify related overseas experience. Additional limitations include a requirement that foreign firms have a local construction license or establish a local subsidiary in order to bid on public projects. Possible exceptions to current laws involve construction services requiring new technology or cases where foreign firms provide consulting and other services.

In connection with its accession to the WTO, Taiwan has agreed to join the Agreement on Government Procurement (GPA). Adherence to the GPA's procedures should improve the transparency of the bid process on major government procurement contracts, but limited progress has been noted to date. In addition, Taiwan has agreed to new dispute settlement procedures on major government contracts; however, these procedures are not yet binding on the parties. A new government procurement law became effective in mid-1999, marking an important step toward open, fair competition in Taiwan's market for public procurement projects. The new law is being implemented and enforced by a new, centralized body, the Public Construction Commission. The United States and Taiwan are engaged in negotiations to resolve inequities in Taiwan's government procurement regime. Preliminary arrangements to address some concerns have been agreed, but the U.S. remains concerned about the government procurement environment.

EXPORT SUBSIDIES

Taiwan provides an array of subsidies to farmers, ranging from financial assistance to guaranteed purchase prices higher than world prices. It also provides incentives to industrial firms in export processing zones and to firms in designated "emerging industries." Some of these programs may have the effect of subsidizing exports. Taiwan has notified the WTO of these programs and, as part of its WTO accession, is amending or abolishing any subsidy programs inconsistent with WTO rules.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Citing persistent intellectual property rights (IPR) enforcement problems, the United States placed Taiwan back on the Special 301 Watch List in August 1998. In 1999, the U.S. Customs Service (Customs) seized \$42 million of counterfeit goods from Taiwan, making it the largest source of counterfeited CDs and DVDs that year. In response, Taiwan authorities have taken some steps to address U.S. concerns. The Taiwan authorities, in February 1999, issued a directive requiring only the use of legal software by Taiwan authorities. According to data released by Customs, their seizure of counterfeit goods from Taiwan during the first half of 2000 declined 31 percent to \$2.7 million (or 12 percent of total U.S. counterfeiting seizure), as compared to 43 percent in

1999. The Intellectual Property Office (IPO) cooperated with police in 2000 to crack down on counterfeiting island-wide. The Bureau of Standards, Metrology, and Inspection (BSMI) has begun night inspection on CD manufacturers with limited success. The IPO began implementing a mandatory chip-marking program on MASK-ROM in July 2000.

Despite these steps, significant deficiencies remain with respect to Taiwan's IP protection. U.S. industries remain concerned that the judicial system is not effectively addressing IP cases. Generally, IP holders find that the procedures themselves act as barriers and penalties are inadequate. For instance, although the Judicial Yuan simplified power-of-attorney (POA) procedures for U.S. firms involved in lawsuits, U.S. industries remain concerned that, among other requirements, IP owners must still authenticate POAs for each case brought in the Taiwan courts.

Often conflicting or unclear lines of bureaucratic authority stymie IPR enforcement efforts. The fact that only prosecutors can initiate cases and bring charges also limits active enforcement. Taiwan still has failed to require the confiscation of CD products that lack SID codes. Taiwan has not made chip-marking mandatory under the Commodity Labeling Act nor has it expanded its chip-marking program to include micro-controllers. The U.S. has repeatedly urged Taiwan to enact an "optical media law" to manage and protect all CD, DVD and related products. It is critical that Taiwan adopt a legal requirement to license the import and use of optical media manufacturing machinery, as Taiwan is one of the world's largest producers of these products. Other governments have adopted such requirements which have been effective tools to identify and to act against copyright piracy. In February 2001, Taiwan pledged to draft and pass an optical media law.

Another area of concern is the lack of adequate protection for the packaging, configuration, and outward appearance of products, an area of IPR known as "trade dress." Despite provisions in Taiwan's Fair Trade law designed to protect unregistered marks and other packaging features, copying of U.S. products by local products which are misleading in appearance remains a problem.

Taiwan is not a party to any major multilateral IPR conventions. Nonetheless, in line with WTO accession efforts, Taiwan has passed laws to protect such items as integrated circuit layouts and trade secrets. Taiwan currently protects copyrights dating from 1965, an inadequate period by international standards. Revised copyright and trademark laws were passed in 1997. The new Copyright Law, which will be fully implemented only upon WTO accession, provides for protection of pre-1965 works two years after Taiwan becomes a member of the WTO. However, the unauthorized production of pre-1965 works remains a problem as Taiwan continues to export such product to countries where they are copyright protected. Also, Taiwan's copyright laws fall short in a number of areas such as protection against circumvention of technical measures, temporary copies, and ISP liability provisions. Although Taiwan's 1994 Patent Law provides a 20-year term of protection for new filings, patents issued under the previous Taiwan law only receive a term of 15 years from the date of publication and are subject to a cap of 18 years from the date of filing. In order to be in full compliance with the WTO TRIPS Agreement, Taiwan must fix these deficiencies in its IPR legal

structure.

SERVICES BARRIERS

Financial Services

Taiwan's financial liberalization has moved faster than the timetable it had committed to in its February 1998 bilateral agreement with the U.S. regarding accession to the WTO. In late December 2000, the Securities and Foreign Exchange Commission (SFEC) proposed that the Executive Yuan lift the restriction on employment of foreigners by securities firms in the middle of January 2001. The SFEC removed the 50-percent foreign ownership limit on listed companies on the first trading day of the stock market (i.e., January 2, 2001). Although each qualified foreign institutional investor (QFII) is still subject to a limit on portfolio investment, the SFEC relaxed its requirements on November 20, 2000 by raising the limit from New Taiwan Dollars (NTD) \$1.5 billion to \$2.0 billion. For QFII's, restrictions on capital flows have been removed. However, foreign individual investors are still subject to some limits on their portfolio investment and restrictions on their capital flows.

In June 1997, the annual limit on a company's non-trade outward (or inward) remittances was raised from NTD \$20 million to \$50 million. Inward/outward remittances unrelated to trade by individuals are subject to an annual limit of NTD \$5 million. There are no limits on trade-related remittances. NTD-related derivative contracts may not exceed one-third of a bank's foreign exchange position. To stabilize the foreign exchange market in the wake of regional financial turmoil, the CBC closed the non-deliverable forward (NDF) market to domestic corporations in May 1998; the NDF market remains open to foreign companies.

In May 1997, the financial authorities announced that insurance companies, in principle, would be allowed to set some premium rates and policy clauses without prior approval from regulators. Insurance companies are still required to report such rates and clauses. On January 2, 2001, Taiwan further relaxed the prior-approval requirement, increasing the percentage share of the insurance products without prior approval to 50 percent. In July 1995, Taiwan removed a prohibition against mutual insurance companies but has yet to issue implementing regulations.

Legal Services

Foreign lawyers may not practice law in Taiwan but may establish consulting firms or work with local law firms. Qualified foreign attorneys may, as consultants to Taiwan law firms, provide legal advice to their employers only. Legislation was passed in May 1998 to permit the eventual establishment of foreign legal partnerships, but last minute changes to the law failed to achieve this purpose. Taiwan authorities subsequently agreed to delay implementation of the law and made other commitments which will permit foreign attorneys to establish partnerships either upon accession to the WTO, or upon implementation of the new law, whichever comes first.

Films

Taiwan continues to limit the import and screening of foreign films. Imports of foreign film prints are limited to 58 per title. The number of theaters in any municipality permitted to show the same foreign film simultaneously is limited to 18, and multi-screen theaters are only allowed to show a single title on a maximum of three screens simultaneously. A bill is currently pending in the Legislative Yuan, that would abolish the restrictions after WTO accession.

Engineering Consulting Services

Taiwan's Public Construction Committee (PCC) announced in March 2000 the "Management Rules Governing Construction Consulting Organization." The rules require chief managerial-level personnel employed by construction consulting firms to have a local professional engineer license (PE). Many foreign firms are concerned by the new regulations because many of their chief managerial personnel who have a PE from their home countries would be unable to obtain a Taiwan local PE, in large part due to the Chinese language exam. Firms failing to meet this requirement would be unable to renew their company license. The Taiwan authorities have offered to temporarily ease the local PE requirement, but this issue will continue to negatively affect U.S. firms.

Telecommunications Services

Taiwan issued new licenses to three new fixed-line telecommunications companies during 2000. U.S. companies were initially very interested in fixed-line operations. However, Taiwan's requirement that new telecom companies invest \$1.2 billion in new facilities as well as Taiwan's commitment to open fixed-line competition fully by July 2001 (when Taiwan's commitments on these services become effective upon Taiwan's accession to the WTO) dissuaded U.S. and most other foreign telecom companies from seeking licenses at that time.

Several international telecom companies, however, are keenly interested in providing fiber-optic broadband submarine cable service to Taiwan customers. However, current regulatory proposals would hinder their ability to do so. For instance, Taiwan's regulators have proposed that sale of their capacity be restricted to Taiwan's four fixed-line license holders effectively preventing submarine cable firms from selling directly to Internet Service Providers and private businesses. In addition, these regulations would prohibit submarine cable providers from constructing their own backhaul facilities and building more than one gateway. The United States has regularly raised concerns with the Taiwan authorities to assure that these companies can effectively compete in the Taiwan market.

INVESTMENT BARRIERS

Taiwan continues to liberalize its financial sector. On January 1, 2001, Taiwan removed the 50-percent foreign ownership limit on listed companies. In November 2000, the portfolio investment limit on each qualified foreign institutional investor (QFII) was relaxed, raised from NTD \$1.5 billion to \$2.0 billion. Restrictions on capital flows by QFII's have been removed. However, foreign individual investors are still subject to

some limits on their portfolio investment and restrictions on their capital flows.

Taiwan continues to relax investment restrictions in a host of areas, but foreign investment remains prohibited in key industries such as agriculture, broadcasting, power, and liquor and cigarette production. Foreign investors in the telecommunications sector are subject to a 60-percent ownership limit, including 20 percent on direct foreign investment. Taiwan plans to further relax the restriction, by raising the foreign ownership limit on direct foreign investment from 20 to 40 percent, subject to legislative approval of the amendment of the Telecom Act. Liquor and cigarette production will be fully liberalized by 2004. Foreign ownership in airlines is limited to 33 percent, but this ceiling may be raised to 50 percent under pending legislation. Foreign ownership is limited to 50 percent in the independent power sector. The electricity transmission and distribution markets are wholly monopolized by state-owned Taiwan Power Company (Taipower), which also has a de facto monopoly over electricity generation. The state-owned Chinese Petroleum Company (CPC) has the sole right to import gasoline and liquid natural gas (LNG) and maintains the only substantial pipeline network in Taiwan.

ANTI-COMPETITIVE PRACTICES

Taiwan Power Company and Chinese Petroleum Company have state-sanctioned or de facto monopoly power over most sub-segments of the energy market. Both companies take advantage of their strong positions by requiring vendors to sign contracts with terms and conditions that may be considered onerous or anti-competitive. For example, under the Power Purchase Agreement between Taipower and independent power plants (IPP), and the Gas Supply Contract between CPC and the same plants, state-owned Taipower holds IPPs responsible for ensuring an adequate fuel supply for electricity generation. At the same time, the sole fuel supplier to the IPPs, state-owned CPC, refuses to guarantee supply. Only one of the 15 licensed IPP projects has received international financing.

In the mobile phone market, U.S.-invested mobile service providers contend the pricing practices of former monopoly provider Chunghwa telecom are unfair and predatory. They argue that Chunghwa has stifled competition from new entrants by repeatedly lowering mobile charges by cross-subsidizing its mobile operations with profits from other business areas, including its wire line services. Despite increased competition from new entrants to the wire line market and court rulings restricting Chunghwa's pricing cuts, U.S.-invested mobile service providers remain concerned that Chunghwa will continue to use unfair pricing practices to undermine the competition.

In the cable TV market, U.S. program providers contend the island's two dominant multi-system operators (MSOS) frequently collude to inhibit fair competition in the offering of their products. Control by the two MSOS of upstream program distribution inhibited U.S. program providers from negotiating reasonable program fees. Taiwan regulators have done little to prevent collusion and unfair trade practices in program distribution. A

recently passed bill amending the Cable TV law may allow the conglomerates to further control the market.

CORRUPTION

Corruption and graft continue to have a negative impact on Taiwan's business environment. The new government's efforts since May 2000 to root out corruption, including "Black Gold" payments to politicians for business favors, has resulted in many arrests and some convictions, but has not yet led to systemic changes. Politicians at the local, county and national levels have been charged with extorting payments, withholding disaster relief supplies, promoting stock scams and other illegal activities. U.S. companies face great difficulties competing in industries such as environmental and waste management, construction and public advertising markets where these practices are reportedly common.

ELECTRONIC COMMERCE

Taiwan supports international efforts to facilitate global e-commerce and in 1998 unveiled e-commerce policy guidelines that emphasize the primacy of the private sector in e-commerce development. In practice, Taiwan's approach to e-commerce and related issues is still evolving, though a law protecting personal on-line data has been approved. A positive development is the proposed Electronic Signature Law which is currently under review in the Legislative Yuan. The proposed law adopts the principles of the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Commerce and would recognize the legal validity of electronic contracts, records, and signatures. Assessment of duties for software sold and downloaded over the Internet is still under discussion and no conclusion has been reached. In the area of online banking, securities transactions and other online transactions, the Ministry of Finance announced in late 1999 that it would allow two competing security standards in Taiwan.

OTHER BARRIERS

Medical Devices and Pharmaceuticals

Market access for U.S.-made medical devices and pharmaceuticals has been one of the most stubborn trade issues between the United States and Taiwan over the last five years. The United States has called on Taiwan to adopt measures that will recognize the value of the technology embodied in U.S. medical devices, or to otherwise adopt market-based approaches, such as patient co-payment, to permit adequate market access for higher quality, higher priced devices. New regulations regarding price differentials are expected by mid-2001. Taiwan has declared both the medical device and pharmaceutical sectors as areas warranting priority for local development. Favorable measures have been introduced by Taiwan agencies to promote the development of local companies.

Nevertheless, Taiwan has made little progress in addressing U.S. concerns. Under Taiwan's national health insurance system, the government is effectively the exclusive buyer for all medical products and services in Taiwan. This "reference pricing" system

frequently has the effect of discriminating against typically higher-quality and higher-priced pharmaceuticals and medical devices imported from the United States by limiting the reimbursement amount for certain products. Although a Taiwan law mandates reimbursement to healthcare providers at the actual costs of transaction, lax enforcement of this law has allowed generic producers to offer significant discounts.

Grouping products of similar types of pharmaceuticals and medical devices is another method used to lower reimbursement prices on higher quality products. Despite its pledge under a 1996 agreement with the United States on medical device pricing, Taiwan has yet to take adequate measures to establish differentiated pricing for devices based on the relative value to technology (the "functionality" measure). Significant differences exist between the functionality of imported products and those made in Taiwan.